



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 29963244

Date: FEB. 13, 2024

Motion on Administrative Appeals Office Decision

Form I-140, Immigrant Petition for Alien Workers (National Interest Waiver)

The Petitioner, an art restorer, collector, and gallery director, seeks classification as an alien of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). The Director of the Nebraska Service Center denied the petition, concluding that the record did not establish that the Petitioner met the initial evidence requirements for this classification by meeting at least three of the ten evidentiary criteria under 8 C.F.R. § 204.5(h)(3). We agreed with the Director and dismissed the appeal. The matter is now before us on a combined motion to reopen and motion to reconsider.

Pursuant to 8 C.F.R. §§ 103.5(a)(1)(i) and 103.8(b), motions must generally be filed within 33 days of the adverse decision. The untimely filing of a motion to reopen may be excused in the discretion of U.S. Citizenship and Immigration Services (USCIS) where it is demonstrated that the delay was reasonable and beyond the control of the applicant. 8 C.F.R. § 103.5(a)(1)(i). A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4). The regulations make no provision for accepting an untimely filed motion to reconsider.

We dismissed the appeal on May 24, 2023. After being rejected by the Phoenix Lockbox, the Form I-290B, Notice of Appeal or Motion, was not received until August 22, 2023, 90 days after the decision. Counsel for the Petitioner apologizes for the untimely response, stating it was due to a delay in mail forwarding to their new office address and submits an updated Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative. While we acknowledge the statement on motion, the Petitioner has not demonstrated that the untimely filing was reasonable and beyond his control.¹ 8 C.F.R. § 103.5(a)(1)(i). Therefore, the combined motion to reopen and motion to reconsider is dismissed.

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.

¹ We note, for example, counsel for the Petitioner did not provide evidence that they informed USCIS of their change of address prior to submitting the updated Form G-28 on August 22, 2023.